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CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2:35 pm, Sep 15, 2023
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

-----X **Docket#**
SUPERB MOTORS, INC., et al., : 23-cv-06188-OEM-ST
:
Plaintiffs, :
:
- versus - : U.S. Courthouse
: Central Islip, New York
DEO, et al., :
: September 15, 2023
Defendants : 11:31 a.m.
-----X

TRANSCRIPT OF CIVIL CAUSE FOR SETTLEMENT CONFERENCE
BEFORE THE HONORABLE JAMES M. WICKS
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Plaintiff:

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1 THE CLERK: Calling civil case 2023-6188,
2 *Superb Motors, Inc., et al. v Deo, et al.*

3 Counsel, please state your appearances for the
4 record.

5 MR. KATAEV: Good morning, everyone. Emanuel
6 Kataev of Milman Labuda Law Group PLLC for the plaintiffs
7 that are moving, Superb Motors, Inc., Team Auto Sales
8 LLC, and Robert Anthony Urrutia.

9 THE COURT: Good morning, Mr. Kataev. And with
10 you? If you could identify your clients?

11 MR. KATAEV: With me is Robert Anthony Urrutia
12 and Bruce Novicky.

13 THE COURT: Okay. Good morning.

14 UNIDENTIFIED SPEAKER: Good morning.

15 THE COURT: You can remain seating.

16 MR. KATAEV: Thank you.

17 MR. THOMASSON: Harry Thomasson, 3280 Sunrise
18 Highway, Box 112, Wantagh, New York for Mr. Deo who joins
19 me here this morning, your Honor. Good morning.

20 THE COURT: Okay. Good morning to you both as
21 well. So we just concluded --

22 MR. THOMASSON: Your Honor?

23 THE COURT: Yes?

24 MR. THOMASSON: Excuse me, I'm sorry. To be
25 exact, I represent the responding defendants on the TRO.

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1 THE COURT: Okay. So it is --

2 MR. THOMASSON: And not just Mr. Deo.

3 THE COURT: Right. All of the defendants
4 except for the lending institution and the accountant if
5 I remember from yesterday.

6 MR. THOMASSON: Yes, you do.

7 THE COURT: All right. So we just concluded a
8 conference, a settlement conference limited to the TRO
9 portion of the motion that is before Judge Merchant. And
10 we've come to a resolution of the TRO only. And I'm
11 going to recite the terms and I'm going to ask everyone
12 to listen carefully because I'm going to ask both sides
13 then were these the terms and is there anything different
14 or additional that needs to be added. Okay? And then
15 I'll post something later today. You can get the
16 transcript through the clerk's office. And I'll advise
17 Judge Merchant that the TRO portion has been resolved
18 today.

19 All right. So here is the agreement.

20 We are, just for reference, we have been using
21 the chart that is posted at docket entry 30-8. That's a
22 three-page chart of vehicles and it has notations after
23 each vehicle. So 28 vehicles, that is of all of the yes
24 indicated vehicles, will be returned to plaintiff. The
25 only yes vehicle that is not going to be returned to

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1 plaintiff's lot is the 2023 Chevy Suburban which is on
2 page 3 of the chart ending in the four digits of the VIN
3 number 8675. So those 28 vehicles of the yes except for
4 the Chevy Suburban, which would bring it to 29, so it
5 brings it down to 28, are going to plaintiff's lot.

6 In addition, the two Isuzu flatbed trucks are
7 going to get returned to plaintiff's lot. So that's a
8 total of 30 vehicles will be returned to plaintiff's lot.
9 Plaintiffs agree not to sell or dispose during the TRO
10 period these 30 vehicles.

11 Also on the list there are six vehicles that
12 the defendants agree not to sell or dispose of during the
13 TRO period. One of the six is the Chevy Suburban, the
14 2023 Chevy Suburban. And then there are five others on
15 the list. I'm just going to recite them for the record
16 so it is clear to everybody.

17 2020 Mercedes-Benz. That's on page 2 of the
18 list, the third entry ending in VIN 4078.

19 On the same page is a 2019 Land Rover Range
20 Rover ending in VIN 3297.

21 The next page, the third page, there are three
22 cars on that. One, a 2017 Rolls-Royce Dawn ending in VIN
23 2728.

24 Going down the list is a 2016 Audi A6 ending in
25 VIN 9650.

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1 And finally, there's a 2016 Audi Q5 ending in
2 0272.

3 Those vehicles will not be sold or disposed of
4 by plaintiff during the TRO period. The TRO will remain
5 in effect pending decision by Judge Merchant on the
6 underlying motion for preliminary injunction.

7 In addition, there are two other items.
8 Defendants will provide proof of insurance on the Chevy
9 Suburban and on the Land Rover which are used as demos.
10 They'll provide that today. Email PDF over through
11 counsel proof of insurance.

12 And then the remaining issue is the plaintiffs
13 have two dealer plates which they will locate that are in
14 defendant's ownership, that they'll be turned back over
15 to defendant. And just for reference, defendants
16 indicated that the two dealer plates are being used by
17 Eugene and Landy. So if you can locate those and get
18 those back to the defendants.

19 Those are the terms that I have. Mr. Kataev,
20 any other terms of the TRO?

21 MR. KATAEV: Not so much terms but
22 clarifications on the terms.

23 THE COURT: All right.

24 MR. KATAEV: In terms of returning the 30
25 vehicles, they must be returned today. Authorization

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1 provided, permission granted for our team to come in to
2 pick them up.

3 THE COURT: All right. Any problem there?

4 MR. THOMASSON: We agree to have them come and
5 pick them up. We will let them know --

6 THE COURT: You'll make them available today.

7 MR. THOMASSON: We will let them know just as
8 soon as we can figure out where we're going to do it
9 because we don't want them in the building at this time.

10 THE COURT: Okay. Mr. Deo, you'll be able to
11 give access today though because that has to happen
12 today.

13 MR. DEO: Yes.

14 THE COURT: Okay. Good. Anything else, Mr.
15 Kataev?

16 MR. KATAEV: The next issue is that they agree
17 not to sell or dispose those six vehicles but all the
18 remaining vehicles they similarly agree not to sell or
19 dispose of them as Judge Merchant already ordered.

20 THE COURT: Well, I'm not getting into what she
21 already ordered. That's her order. So that's not part
22 of this TRO.

23 MR. KATAEV: Okay. In terms of the dealer
24 plates, we currently can't confirm possession of them but
25 we will make search efforts to locate them and if we have

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1 them, we will provide them.

2 THE COURT: Okay. If you don't have them,
3 you'll get an affidavit saying you no longer have them.
4 You'll provide them with an affidavit.

5 MR. KATAEV: And finally, that this stipulation
6 of settlement will be so ordered and it is just for these
7 vehicles. And the remaining vehicles are still in play
8 for the preliminary injunction motion.

9 THE COURT: All other rights are preserved for
10 both sides. This just resolves the TRO.

11 MR. KATAEV: And I'm just going to confer with
12 my clients before I confirm that we're all done.

13 THE COURT: All right.

14 MR. KATAEV: Nothing further, your Honor.

15 THE COURT: All right. Very well. Mr.
16 Thomasson, anything --

17 MR. THOMASSON: I only had one point I wanted
18 to bring up that I think we just covered but I wanted to
19 be clear on

20 THE COURT: Good.

21 MR. THOMASSON: The six cars that we are
22 agreeing to not sell or dispose of, those specific six --

23 THE COURT: Yes.

24 MR. THOMASSON: -- one of which is marked yes
25 and we agree is ultimately Superb's. We do not agree and

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1 we are taking I guess all of us collectively no position,
2 everybody's rights are still preserved --

3 THE COURT: That's right.

4 MR. THOMASSON: -- on the other five.

5 THE COURT: That's right.

6 MR. THOMASSON: I just want to -- right.

7 THE COURT: Yes. All rights as to who owns
8 what are preserved for sure.

9 MR. THOMASSON: Because our position on the
10 list --

11 THE COURT: Yes.

12 MR. THOMASSON: -- as we marked it up remains
13 the same.

14 THE COURT: Agreed. All this does is really
15 maintain sort of a standstill or status quo as to those.
16 Everybody's rights are preserved with respect to the
17 arguments as to who owns what and where they belong.

18 MR. THOMASSON: Understood.

19 THE COURT: All right?

20 MR. THOMASSON: Yes.

21 THE COURT: Listen, I appreciate you coming in
22 today on such short notice. I appreciate the submissions
23 from counsel last night. They were very helpful. And I
24 really appreciate the active participation and the
25 compromise on both sides in trying to resolve at least

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1 the TRO. Right? I'm sorry it's not my case. I enjoyed
2 having you in, all of you.

3 MR. KATAEV: We're grateful that you made
4 yourself available, your Honor.

5 THE COURT: Of course. Any time. All right.
6 Have a good afternoon, everybody, and good luck to
7 everybody. All right?

8 MR. THOMASSON: Thank you.

9 MR. KATAEV: Thank you.

10 (Matter concluded)

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C E R T I F I C A T E

I, MARY GRECO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 15th day of September, 2023.



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